

**IN THE UNITED STATES DISTRICT COURT  
THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**PATRICK J. CARR,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 3:04CV50  
(BROADWATER)**

**THOMAS MCBRIDE, Warden,**

**Respondent.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled matter came before the Court for consideration of the Patrick J. Carr's pro se Petition for Writ of Habeas Corpus By a Person in State Custody under 28 U.S.C. § 2254 along with a document titled, "Motion Requesting the U.S. District Court, Northern District of West Virginia, Take Jurisdiction in this Case and Hear a State or Federal Level Appeal, Release Me From Prison and Allow my International Transfer to the United Kingdom or Ireland or Any Other Mutually Agreeable Country, Under the Terms of a New International Treaty Between the U.S. and Approximately 62 Other Countries (I am a British Citizen, I Make no Claim to U.S. Citizenship; My Parents Were British Citizen Aliens Living in the U.S.)." Magistrate Judge James E. Seibert reviewed the Petition and issued his Report and Recommendation on July 1, 2005. The Petitioner filed objections to the Magistrate Judge's Report and Recommendation on July 11, 2005 and October 13, 2005. In the interests of justice and in accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a *de novo* review of the issues raised in Petitioner's objections.

The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted. Petitioner's objections do

not address the dispositive statute of limitations issue addressed by Magistrate Judge's Report.

Carr claims he has discovered new evidence in his objections to the Report and

Recommendation. The new claims are barred by the statute of limitations because, with due diligence, the issues could have been discovered and addressed earlier. 28 U.S.C.

§2244(d)(1)(D). Although the claims are barred by the statute of limitations, the Court notes that if Petitioner's new arguments were considered, the alleged new evidence he claims would not alter the outcome of this matter.

Accordingly, the Court **GRANTS** the Respondent's Motion to Dismiss (Document No. 9). Carr's § 2254 petition (Document No.1) is **DENIED** as being untimely and **DISMISSED WITH PREJUDICE**. Petitioner's Motion Requesting the U.S. District Court, Northern District of West Virginia, Take Jurisdiction in this Case (Document No. 4) and Petitioner's Motion to Deny Respondent's Motion to Dismiss Civil Action 3:04cv50 (Document No. 12) are **DENIED**. The Court further **ORDERS** this matter be **STRICKEN** from the active docket of the Court.

The Clerk is directed to transmit true copies of this Order to the Petitioner and all counsel of record herein.

It is so **ORDERED**.

**DATED** this 4<sup>th</sup> day of May 2006.

  
W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE